



Congressional Notification of Pending Contract or Financial Assistance Actions in Excess of \$1 Million

AL/FAL 2010-04
Issued March 1, 2010



Overview

- **Procurement Director's Responsibilities**
- **Reminders and Additional Requirement**
- **Lessons Learned**
- **Challenges**
- **Planning for End of Fiscal Year**
- **Questions**



Section 311 Submission Procedures Procurement Director's Responsibilities

- **Procurement Director is responsible for ensuring the accountability, accuracy, and timeliness of the notification process to include (AL/FAL 2010-04, Section E.3 and E.5):**
- ✓ **Completion of all local reviews, concurrences and approvals before sending the draft notice, to include the business clearance review. Very important!**
 - ✓ **Implementation of sufficient local procedures to ensure compliance with the AL/FAL 2010-04.**
 - ✓ **Retention of copies of all Congressional notification submissions for the official transaction file.**
 - ✓ **Conducting periodic local pre- and post-submission quality assurance to ensure that all required notices are or have been submitted.**
 - ✓ **Selection Official is fully cognizant that no public announcement of selection or award may be made prior to confirmation that notice was sent to Congress and the 3 full business days has elapsed. Very important!**



Reminders and Additional Requirement

- **Ensure your staff understands and complies with AL/FAL 2010-04.**
- **Draft form letters are available:**
 - ✓ **In Microsoft Word in STRIPES library; and**
 - ✓ **DOE Procurement website under Policy Flash 2010-27.**
- **Reviews, concurrences and approvals includes the business clearance review by Acquisition Planning and Liaison Division.**
- **Additional requirement, not addressed in AL/FAL 2010-04, is to include in 311 Notice/ ARRA Notice e-mail unsuccessful applicant(s)/offeror(s).**
 - ✓ **Put in e-mail or as an attachment to the e-mail.**
 - ✓ **Do not put unsuccessful applicant(s)/offeror(s) in the draft notice.**
- **Continued on next chart.**



Reminders and Additional Requirement Continued

- **Submit draft notices for actions valued in excess of \$1 million and obligates Fiscal Year 2010 appropriations under Public Law 111-85, at least 10 days prior to making award or public announcement to the 311notice@hq.doe.gov mailbox. (AL/FAL 2010-04, Section E.1.)**
- **Notice to Congress is 3 full business days, excludes weekends and holidays.**
 - ✓ **Business hours for Congressional offices are 8:30 a.m. to 5:30 p.m. eastern time.**
 - ✓ **Example – Notice is sent by MA611 on Tuesday – award or announcement can be made no earlier than Monday.**
- **Section 311 notice is in addition to preexisting DOE procedures for Congressional notifications of contract and financial assistance actions. Contracting activities complete and submit form DOE F 4220.10, Congressional Grant/Contract Notification, as usual.**



Lessons Learned

- **Preparer of notice needs to understand and comply with AL/FAL 2010-04 procedures.**
- **Submission of notices without name(s) of successful applicant(s)/offeror(s) in the notice and without unsuccessful information in the e-mail.**
- **Including unsuccessful applicant(s)/offeror(s) information in the draft notice instead of e-mail.**
- **Sending unencrypted e-mails of draft notices.**
- **Some e-mails do not provide who should receive a blind copy when the notice is sent by OPAM to Congress.**
- **Be aware of actions that have specific interest by the Headquarters, White House. Coordinate with Program Office to ensure timing of sending notice and any announcements are synchronized.**
- **Contracting Activity needs to coordinate with the Program Office. Make sure the Program Office understands that the Contracting Activity sends the draft to OPAM.**



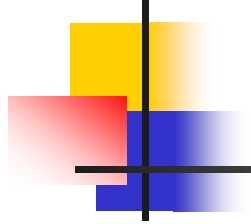
Challenges

- **Receiving 311 Notice/ARRA Notice 10 business days before award or announcement.**
 - ✓ **Requirement due to internal HQ reviews.**
 - ✓ **MA611 willing to work with the contracting activity on case-by-case basis for notices in less than 10 days.**
 - ✓ **E-mail with notice needs to request shorter time and explain why.**
 - ✓ **We will do our best to support this request.**
- **End of fiscal year – last day notices can be sent to Congress by MA611 will be September 24, 2010 by 5:30 p.m. eastern time.**
 - ✓ **Draft notices will need to be received at 311Notice mail box no later than September 14, 2010.**



Planning for End of Fiscal Year – Notice Requirements

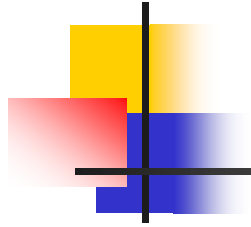
- **Start planning for last quarter actions that will require either a 311 Notice/ARRA Notice.**
 - ✓ **Identify and track solicitations, orders and financial assistance actions in excess of \$1 million to be awarded in the fourth quarter.**
 - ✓ **Ensure milestones allow for submitting the draft notice to 311notice@hq.doe.gov and transmission of notice by MA611 to Congress.**
 - ✓ **Draft notices need to be sent to 311notice@hq.doe.gov mail box no later than September 14, 2010.**
- **End of fiscal year – last day notices can be sent to Congress by MA611 will be September 24, 2010 by 5:30 p.m. eastern time.**



QUESTIONS?

COMMENTS?

SUGGESTIONS?



BACK UP



Section 311 Discretionary Contract Awards – Notification Requirement

- **AL/FAL 2010-04, Section C.**
- **Contract action in excess of \$1 million, including options.**
- **Non-competitive extension of a contract that requires a JOFOC.**
- **Small business programs, pre-award notices to unsuccessful offerors should not be provided until after the notice is given and 3 full business days have elapsed.**



Section 311 Discretionary Contract Awards – Notification Requirement

- **Does not apply to the following (AL/FAL 2010-04, Section C.4.) :**
 - ✓ **Modifications that are within the scope and subject to the terms and conditions of an existing contract, including modifications that are issued pursuant to the Changes clause of the contract and administrative modifications (e.g., funding modification)**
 - ✓ **Exercise of existing options that are contained in the contract**
 - ✓ **Issuance of a task and delivery order awarded under a DOE single award indefinite delivery contract**
 - ✓ **Contract actions, including orders, which are awarded using another agency's funds**



Section 311 Financial Assistance and Other Transactions – Notification Requirement

- **AL/FAL 2010-04, Section D.**
- **Competitive discretionary grant award:**
 - ✓ **Notification is required prior to announcement of a selection of applications when the total amount available for all awards is in excess of \$1 million.**
 - ✓ **Notification is not required for subsequent award(s) when notification was made previously.**
- **Grant allocations (block and formula grants):**
 - ✓ **Notice required in advance of announcing publicly the funding opportunity announcement and the annual program notice.**
 - ✓ **Notification is not required for subsequent award(s) when notification was made previously.**
- **Continued on next chart.**



Section 311 Financial Assistance and Other Transactions – Notification Requirement - Continued

- **Office of Science's annual funding opportunity notices notification is required on awards in excess of \$1 million after selection but prior to award.**
- **Non-competitive discretionary financial assistance notification is required prior to award of non-competitive, discretionary, grant(s), cooperative agreement(s), or other transaction agreement(s) valued in excess of \$1 million to include congressionally directed projects.**



ARRA – Non-Statutory Notification Requirement

- **AL/FAL 2010-04, Section G.**
- **Actions valued in excess of \$1 million, under which funds are made available from the ARRA and the action will be subject of a press release or other formal media event. Actions may be identified by HQ officials or by the program field office.**
- **Use Section 311 Submission Procedures described in Section E.**
- **Field Contracting Office Activity shall:**
 - ✓ **Prepare the required draft notice using the appropriate form letter. (Spell out all abbreviations and acronyms.)**
 - ✓ **Coordinate with the Program Office Recovery Act lead, who will coordinate with the DOE Recovery Act Team.**
 - ✓ **State in the e-mail to OPAM, whether or not DOE will issue a press release or any other media event (public announcement. Mention if there were any earlier public announcement made and when it occurred.**



Section 311 Submission Procedures

- **AL/FAL 2010-04, Section E.**
- **Submit draft notices for actions valued in excess of \$1 million and obligates Fiscal Year 2010 appropriations under Public Law 111-85, at least ten days prior to making award or public announcement to the 311notice@hq.doe.gov mailbox.**
- **Field Contracting Office Procurement Director, or designee, shall:**
 - ✓ **Prepare the required draft notice using the appropriate form letter. (Spell out all abbreviations and acronyms.)**
- **When the action is ready for award or public announcement, the Procurement Director, or designee, shall submit the e-mail to the 311notice@hq.doe.gov mailbox with the level of detailed described in AL/FAL 2010-04, Section E.2.**
- **Procurement Director is responsible for ensuring the accountability, accuracy and timeliness of the notification process.**
- **No public announcement of a selection or award shall be made by the Selection Official and/or the contracting officer prior to the passage of the 3 full business days after the Office of Procurement and Assistance Management has sent the notice by e-mail to Congress.**